

# Town of Horicon

## ZONING BOARD OF APPEALS

### Minutes of February 23, 2010

**Members Present:** Gary Frenz, Curt Castner, Dan Smith, Cheryl Erickson, Alternates: Jim Steen

**Members Absent:** Priscilla Remington, Alternate Thad Smith

**Others Present:** Counsel to Boards Mike Hill, Zoning Administrator Gary McMeekin,

**Guests Present:** Tom Johansen, Chris Bedell, Christopher and Christine Burke, Roger and Melanie Houck, Christopher Johnson, Beth Smith, Dan and Deanne Paul, Gary Muller, Charles, Hayes, Kevin Mulcahy, Joe and Karen Burka and others

Note: Alternate Jim Steen will take the place of Priscilla Remington due to her absence.

### Pledge

Regular Meeting called to order by Gary Frenz, Chairperson. Curt Castner made a motion to approve the minutes as corrected, 2<sup>nd</sup> by Cheryl Erickson. All Ayes

### NEW BUSINESS:

**File # 2019-05 AC Tax Map 36.3-3-26 Gary and Elinor Muller** seeking to extend dock to obtain adequate water depth. Proposed dock is 5' wide x 62' long where 40' maximum dock length is allowed. Parcel is located at 181 East Shore Drive. Gary Muller stated that the dock ordinance allows a 40' maximum length and the water depth in the area is not adequate. Dan Smith asked what the water depth is now. Gary Muller stated 21", at 25" the boat will hit the bottom, would like a depth of 36". Cheryl asked about the neighboring dock lengths and if the proposed dock is removable. Gary Muller stated that he believes the neighbors docks are 40' long, the water is deeper and the proposed dock would be removable. Brief discussion ensued regarding the navigation in the area. Cheryl Erickson made a motion to deem the application complete and schedule a public hearing, 2<sup>nd</sup> by Curt Castner. All Ayes.

**File # 2010-06 AV Tax Map 39.14-1-9 Roger and Melanie Houck** seeking a 10' rear yard setback variance and a 8' side yard setback variance to add a 25' x 27' addition with 2<sup>nd</sup> story to existing home on parcel located at 7987 State Rte 8. Roger Houck stated that he purchased the 700 square foot home last year and has designed an addition that would create the minimal impact on living in the home while renovations are being done as the configuration of the stairs, basement and chimney would not allow the addition on the other side of the home. Lengthy discussion regarding the necessary setbacks, square feet of living area, and porch ensued. Roger Houck explained that the rear setback variance request is due to the pre-existing non-conforming house located 40' from the rear line. Gary McMeekin stated that the septic system will be addressed if the variance is approved and if there is an addition of a bedroom a 1250 gal tank will be needed. Cheryl Erickson made a motion to deem the application complete and schedule a public hearing, 2<sup>nd</sup> by Curt Castner. All Ayes.

**File # 2010-07AV Tax Map 70.-2-16 Charles Hayes** seeking a 3.721 acre density variance and a 200' roadway frontage variance to subdivide parcel located at 63 Valentine Pond Rd. Gary McMeekin explained that the applicant is gifting a small parcel to his daughter which meets the minimum requirements but the remaining portion of the lot is located in several zone that include a 10 acre zone. Discussion ensued regarding the necessary variance requests. Cheryl Erickson made a motion to deem the application complete and schedule a public hearing, 2<sup>nd</sup> by Jim Steen. All Ayes.

**File # 2010-08 AV Tax Map 105.10-2-19 Christopher Johnson and Bernie Bolton** seeking a 63' shoreline setback variance to build a garage on parcel located at 4 Hayesburg Rd. Christopher Johnson stated that the proposed garage is 26' x 28' and the plot plan shows the only place on the property to place the garage and since the home was built on a slab there is not storage in the home. Discussion ensued regarding the plot plan prompting Cheryl Erickson to request the applicant provide a copy of the map to the board members. Cheryl Erickson then made a motion to deem the application complete and schedule a public hearing requesting the applicant provide a map, 2<sup>nd</sup> by Curt Castner. All Ayes.

## **PUBIC HEARING:**

**File # 2010-01A Tax Map 89.5-1-11 Dan and Deanne Paull** seeking an appeal of Zoning Administrator's determination regarding acreage of parcel to keep animals on property where definition of farm, full or part time requires land in excess of one acre. Dan Paull stated that he has proven he owns and purchased an acre of land. Joe Burka stated that he his a neighbor living at 136 Duell Hill Rd and the applicant will need an excess of one acre to keep the goats/chickens, has not proven that he owns more than one acre and the property narrows to 50' in the back , is concerned with the negative effects of the sight, sound and smell of the goats which is effecting his quality of life, suggesting that a survey of the parcel be done to prove the correct acreage. Dan Paull stated the he would like to law applied to everyone in town that has a domestic animal, such as a dog or cat. Lengthy discussion ensued between the neighbors regarding the definition of a domestic animal. Jim Steen stated that the applicant has provided tax bills from 1994 that indicate 1 acre of land but the previous 16 years do not indicate 1 acre. Dan Paull stated that the acreage was changed in 2003 but assumed 1 acre was owned. Jim Steen asked the applicant if he would consider having a survey done. Dan Paull stated no. Karen Burka stated that the applicant must provide the burden of proof to the town of more than .81 acres. Gary McMeekin stated that the town's tax maps and acreage used for an assessment purpose is .81 acres. Curt Castner made a motion to close the public hearing, 2<sup>nd</sup> by Cheryl Erickson. All Ayes.

## **UNFINISHED BUSINESS:**

**File # 2010-01A Tax Map 89.5-1-11 Dan and Deanne Paull** seeking an appeal of Zoning Administrator's determination regarding acreage of parcel to keep animals on property where definition of farm, full or part time requires land in excess of one acre. Curt Castner stated that he went to Harpp's in Chestertown that has 20 goats and 9 sheep and the goats did not make any noise. Gary McMeekin stated that the appeal of his determination regarding acreage not goats. Lengthy discussion ensued regarding the method of acreage. Gary Frenz stated that a survey of the property would be proof. Cheryl Erickson stated that the tax bills from 1994 to 2010 state .81 acres. Dan Smith stated that with his experience with the Assessor's office the degree of accuracy is within 5% and the general trend to make the tax maps more accurate. Board members discussed the calculations plus and minus 5% of .81 acres. Dan Smith stated that the best resource is a survey, and absent of that information a tax map is the most accurate information available to this board, it would not be feasible for the town to bear the cost of a survey. Dan Smith then made a motion to uphold the Zoning Administrator's determination of .81 acres based on the evidence available to the board by the Warren County Real Property Services tax map, 2<sup>nd</sup> by Cheryl Erickson. The board was polled. Dan Smith Aye, Cheryl Erickson Aye, Curt Castner Aye, Jim Steen Aye, Gary Frenz. Aye. The motion passed.

## **PUBIC HEARING:**

**File #2010-03AV Tax Map 72.17-1-4 Christopher and Christine Burke** seeking a 41'8" roadway setback variance to add an addition onto existing home located at 7 Duell Hill Rd. Christopher Burke stated that the proposed extension is 2 1/2' closer to State Rte 8, but not closer to Duell Hill road than the existing house, the extension will include a foundation and accommodate a heating source, creating a utility room for a pressure tank, hot water heater and oil tank and this is the minimum needed to accomplish the project, the roof pitch will remain the same and the siding will match the existing home. Gary Frenz asked if anyone had any comments or questions. Being no comments or questions, Cheryl Erickson made a motion to close the pubic hearing, 2<sup>nd</sup> by Jim Steen. All Ayes.

## **UNFINISHED BUSINESS:**

**File #2010-03AV Tax Map 72.17-1-4 Christopher and Christine Burke** seeking a 41'8" roadway setback variance to add an addition onto existing home located at 7 Duell Hill Rd. Gary Frenz stated that Warren County Planning Board's recommendation was No Action - default approval due to a lack of quorum. Cheryl Erickson stated that the proposal is not going any closer to Duell Hill Road as the existing home, this is a minimum variance request. Dan Smith stated that the request to add 56.25 square footage is minimal but the variance request is substantial, there is no undesirable change to the character of the neighborhood as this is a residential property. There is no feasible alternative as placing an addition on the back of the home would require extensive excavation. This is a lateral extension on a non-conforming property. There are not adverse effects on the environment as the applicant will match the siding, no additional bedrooms, septic is adequate, there will be no removal of trees or shrubs. This was not self created as this is a pre-existing non-conforming home built before APA and Zoning. Discussion ensued as to the minimal variance necessary. Cheryl Erickson reiterated that if the extension were in the back of the home that the extra excavation would have more of an impact on the environment. Dan Smith stated that this is the minimum to create a utility room as explained. Cheryl Erickson made a motion to approve the 41'8" roadway setback variance as requested per the reasons discussed, 2<sup>nd</sup> by Curt Castner. All Ayes.

## **PUBLIC HEARING:**

**File #201004AV Tax Map 55.10-1-9 Anne Vandevander** seeking to modify or replace existing home on parcel located at 720 Palisades Road, Brant Lake. The applicant is being represented by Kevin Mulcahy of Eric & Eric. Kevin Mulcahy stated that the house is in disrepair explaining project. Gary Frenz asked the purpose of the loft. Kevin Mulcahy stated that the loft will be open, not looked at as useable space and the owner will be using the NORWECO septic system. Dan Smith asked about the total square footage of the proposed home. Kevin Mulcahy stated that the home would be 28' x 30' with a 15' x 24' porch on the left side. Discussion ensued as to the square footage of the home, porch and septic. Dan Smith asked if this is the minimum variance and the necessity of the large porch/deck. Kevin Mulcahy stated the applicant requested this be part of the design, the footprint would be preserved maintaining a lateral increase due to the steepness of the hill as placing the home further back from the lake would require more clearing and excavation as there is no place that would meet the required setbacks. Gary Frenz stated that the property is not accessible in the winter due to the steepness. Discussion ensued regarding the expansion, the roof pitch and the overall height of the structure and tree removal. Gary McMeekin stated that the structure will be just under 32' high. Kevin Mulcahy stated that there will be some tree clearing but no more than needed. Dan Smith asked if the deck away from the lake is being used for access to the back of the house. Gary Frenz asked if anyone had any comments or questions. Being no further comments or questions, Curt Castner made a motion to close the public hearing 2<sup>nd</sup> by Cheryl Erickson. All Ayes.

## **UNFINISHED BUSINESS:**

**File #201004AV Tax Map 55.10-1-9 Anne Vandevander** seeking to modify or replace existing home on parcel located at 720 Palisades Road, Brant Lake. Dan Smith stated that due to the fact that the existing house sits in a hollow there would be no visual impact from the road view and would not stand out any more from the lake view. Discussion ensued regarding the height and roof line and any effects on the neighboring parcels and the steepness of the driveway. Gary Frenz asked about the second story loft area use. Gary McMeekin stated that this is considered a 3 bedroom and the NORWECO septic system will be designed to accommodate them number of bedrooms applied for. Dan Smith stated that this board must look at minimum variances and needs to justify the additional deck and porch spaces. Cheryl Erickson stated that this is a lateral extension and this is maintaining the 11' existing setback. Jim Steen asked about the runoff from the roof stating that the new structure will add three times the amount of water from the roof. Gary Frenz asked about the foundation. Kevin Mulcahy stated that there will be a full foundation. Gary McMeekin asked if the design could eliminate some runoff. Kevin Mulcahy stated that a gutter application with down spout to a dry well and gravel tank will handle the runoff. Discussion ensued regarding the floor plan and useable/livable area of the home versus the existing home, along with discussion regarding the retaining wall, driveway and parking area. Cheryl Erickson asked if in keeping with the existing footprint the deck could be reduced from 8 feet to 6 feet and shrink the porch back to the existing footprint and an option to eliminate 150 square foot of the front deck to justify the square footage of home with the decks and porches. Lengthy discussion ensued regarding the dormers, screen porch and decks and re-designing the building to request the minimum setbacks especially reducing the porch from 15 feet to 12 feet wide. Kevin Mulcahy stated that he would go back to his client and submit revised plans to justify the square footage of the livable space, reducing the porch width as suggested. Brief discussion ensued regarding receiving revised drawings and revising site plans. Dan Smith made a motion to table this application until next month for further information regarding the revised plans, 2<sup>nd</sup> by Jim Steen. All Ayes.

## **PUBLIC HEARING:**

**File #2009-35AV Tax Map 89.5-1-11 Dan and Deanne Paull** seeking a .20 acre density variance to be defined as a Farm. Full or Part Time under the definition section of the Zoning Code. Karen Burka stated that the issue is the noise of the four goats and the dog yelping and that the applicants do not have more than an acre to be defined as a Farm, reading from a letter she prepared. Deanne Paull stated that the neighbors were told prior to them getting the goats and that she is confused by her neighbors complaints as the neighbor complains one time then the next day is enjoying to goats. Karen Burka then stated that the goats are noisy and there is a smell factor in the summer, playing a recording of the goats for the board and presenting photos of the parcel showing the narrowing in the rear of the parcel. Discussion ensued with the board regarding the "farming" that has existed for years in the area, the kind of goats and other types of animals kept on the property, how long the goats have resided on the property and if there could be any alternatives to solving this issue between the neighbors. Dan Smith made a motion to close the public hearing, 2<sup>nd</sup> by Jim Steen. All Ayes.

## **UNFINISHED BUSINESS:**

**File #2009-35AV Tax Map 89.5-1-11 Dan and Deanne Paull** seeking a .20 acre density variance to be defined as a Farm. Full or Part Time under the definition section of the Zoning Code. After a brief discussion, Dan Smith made a motion to table this matter until next month, 2<sup>nd</sup> by Cheryl Erickson. All Ayes.

**BOARD PRIVILEGE:** Announcement: Meetings will begin at 7:00 PM starting in March.

There being no further business before the board, Chair Gary Frenz adjourned the meeting at 11:05PM

Respectfully Submitted.

Christine Smith-Hayes, Secretary